



BOARD OF APPEALS  
Jesse Geller, Chairman  
Christopher Hussey  
Jonathan Book

# *Town of Brookline*

## *Massachusetts*

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. BOA 2014-0087  
OWNER: VILLAGE PLAZA LIMITED PARTNERSHIP and  
BROOKLINE VILLAGE II LIMITED PARTNERSHIP

Children's One Brookline Place LLC ("Children's 1BP") and Children's Brookline Place LLC ("Children's 2 BP", together with Children's 1 BP, collectively, the "Petitioner") applied to the Building Commissioner for permission to construct a mixed use general/medical office and retail building, to expand an existing medical office building, and to construct an onsite parking garage in replacement of an existing garage. The application was denied and an appeal was taken to this Board.

The Board administratively determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board and fixed 5 March 2015 at 7:15 PM in the Selectmen's Hearing Room, 6<sup>th</sup> Floor, Town Hall, as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to their attorney, to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published on 12 and 19 of February 2015 in the *Brookline Tab*, a newspaper published in Brookline. Copy of said notice is as follows:

## **Notice of Hearing**

Pursuant to M.G.L., C. 40A, the Board of Appeals will conduct a public hearing at Town Hall, 333 Washington Street, Brookline, on a proposal at:

**1, 2 & 4 BROOKLINE PL – CONSTRUCT AN EIGHT-STORY MIXED-USE BUILDING AT 2-4 BROOKLINE PL., A SIX-STORY MEDICAL OFFICE ADDITION AT 1 BROOKLINE PL., AND A NEW SIX-AND-A-HALF-STORY PARKING GARAGE TO REPLACE THE EXISTING FOUR-STORY GARAGE AT 1 BROOKLINE PLACE, in a GMR-2.0, General Business and Medical Research, zoning district, on March 5, 2015, at 7:15 PM in the 6<sup>th</sup> Floor Selectmen's Hearing Room (Petitioner: Children's One Brookline Place LLC and Children's Brookline Place LLC; Owner: Village Plaza Limited Partnership and Brookline Village II Limited Partnership) Precinct 4**

The Board of Appeals will consider variances and/or special permits from the following sections of the Zoning By-Law:

- 1. Section 5.01: Table of Dimensional Requirements, Footnote 1**
- 2. Section 5.06.4.d: General Business and Medical Research**
  - Section 5.06.4.d.1
  - Section 5.06.4.d.1.c.iii
  - Section 5.06.4.d.2.f
  - Section 5.06.4.d.5
- 3. Section 5.43: Exceptions to Yard and Setback Regulations**
- 4. Section 5.09: Design Review**
- 5. Section 6.04.3: Design Review of All Off-Street Parking Facilities**
- 6. Section 6.06.7: Off-Street Loading Requirements**
- 7. Section 7.00.1.b: Signs in All Districts**

*Hearings may be continued by the Chair to a date/time certain, with no further notice to abutters or in the TAB. Questions about hearing schedules may be directed to the Planning and Community Development Department at 617-730-2130, or by checking the Town meeting calendar at: [www.brooklinema.gov](http://www.brooklinema.gov).*

*The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in Town programs and services may make their needs known to **Robert Sneirson, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2328; TDD (617)-730-2327; or email at [rsneirson@brooklinema.gov](mailto:rsneirson@brooklinema.gov).***

*Jesse Geller, Chair*

*Christopher Hussey*

*Jonathan Book*

**Publish: February 12, 2015 & February 19, 2015**

On 5 March 2015 at the time and place specified in the notice a public hearing was held by this Board. Present at the hearing were Chairman Jesse Geller and Board Members Christopher Hussey and Jonathan Book. In response to the Chairman's inquiry, the legal counsel for the Petitioner waived reading of the legal notice. The Chairman then outlined the order to be followed in the proceeding.

Petitioner's proposal was introduced by Charles Weinstein, Vice President for Real Estate Planning and Development, Boston Children's Hospital ("Children's"), who introduced the Project Team and outlined the Petitioner's presentation.

Petitioner's attorney, Marilyn L. Sticklor of Goulston & Storrs PC, 400 Atlantic Avenue, Boston, Massachusetts 02110, then presented the Petitioner's proposal (the "Project"). Ms. Sticklor explained that the GMR-2.0 (General Business and Medical Research) Zoning District consists of three lots, shown as Lot A, Lot B and Lot C on the presentation exhibit. The proposed development parcel consists of Lot A and Lot B (referred to herein as the "Property" or the "Site"). Lot C will not be redeveloped as part of the Project, but is referenced for zoning calculations.

In describing the existing conditions, Ms. Sticklor explained that the Site consists of a 144,508 square feet (SF) parcel currently known as One Brookline Place and Two/Four Brookline Place. The Site, along with the 12,242 SF parcel known as Five Brookline Place, constitute the 156,750 SF of Lot Area within the GMR 2.0 District. The Site is currently improved with a 105,200 SF medical office building (One Brookline Place), a 35,000 SF retail and office building (Two/Four Brookline Place), an existing garage containing 359 parking spaces (One Brookline Place), 29 parking spaces beneath Two/Four Brookline Place and 47 surface parking spaces.

Ms. Sticklor indicated that the Project consists of: (i) An approximately 182,500 SF, eight floor mixed-use building to be known as 2 Brookline Place. The ground floor will contain approximately 14,000 SF of retail use as well as approximately 6,000 SF of common area and 2,500 SF of loading dock areas, and the remainder of the building will contain approximately 160,000 SF of medical office and general office uses on the upper floors; (ii) An approximately 47,000 SF expansion for medical office use of the existing medical office building known as 1 Brookline Place which currently contains approximately 105,120 SF and which possibly may contain up to 2,000 SF ground floor retail uses in the expansion area; and (iii) A 683 space parking garage (with accommodation for up to 137 additional vehicles through managed parking). The parking garage

will serve the entire GMR-2.0 District and the garage will include Zipcar, charging stations and carpool spaces. Based on the uses of the buildings anticipated at the Site, 714 parking spaces would be required to comply with the zoning parking requirements under the Town's Zoning By-Law.

Ms. Sticklor then noted that provisions concerning the GMR-2.0 District are contained in Section 5.06.4.d of the Brookline Zoning By-Law (the "Zoning By-Law"), which allows by special permit a maximum height of 115 feet (subject to special dimensional requirements for the portion of the Site in which the garage is to be located) and a maximum Floor Area Ratio ("FAR") of 3.45 calculated based on the area of the entire GMR-2.0 District, and including the area of the parking garage in the FAR calculations, as required in the GMR-2.0 District. Section 5.06.4.d of the Zoning By-Law also requires 35% open spaces calculated based on the entire GMR-2.0 District (55% of which may be hardscape), and imposes special dimensional requirements as illustrated in the Figure at the end of Section 5.06.4. d. Using visual aids, Ms. Sticklor explained the application of the special dimensional requirements to the Site and the Project.

Ms. Sticklor noted that Section 5.06.4. d.2 of the Zoning By-Law allows a maximum number of 683 parking spaces, plus up to 20% additional number of vehicles in the garage through managed parking. Section 5.06.4. d.2 provides that parking for the GMR 2.0 District is reviewed as a single lot without regard to lot ownership and requires one parking space per 533 gross square feet (GSF) of retail use, one parking space per 467 GSF of medical office use, one parking space per 800 GSF of office use and one parking space per 1,250 GSF of research laboratory use within the GMR-2.0 District. Section 6.02 of the Zoning By-Law sets forth parking requirements for other uses. The Transportation Demand Management Requirements applicable to the proposed development are also set forth in 5.06.4. d.2.

Ms. Sticklor also noted that Section 5.06.4.d.5 of the Zoning By-Law governs signs on building walls not parallel or within 45 degrees of parallel to the street.

Ms. Sticklor explained the special permit sections that apply and from which relief is being sought, as follows:

Section 5.01 - Table of Dimensional Requirements, Footnote #1: If the entrance to a garage or covered vehicular passageway faces toward the street to which its driveway has access, said entrance shall be at least 20 feet from the street lot line. *This requirement may be modified by special permit under Section 5.43. A special permit is required to allow an entrance to the garage facing Pearl Street 6'-7" from the street lot line and an entrance to Two Brookline Place facing Pearl Street 7'-4" from the street lot line.*

**Section 5.06.4.d.1 - General Business and Medical Research (GMR):** All applications for new structures in the GMR-2.0 District shall be subject to the requirements of Section 5.09, Design Review, and shall require a special permit. *A special permit for a major impact project (non-residential development containing more than 25,000 SF) for new structures, outdoor uses and exterior alterations and additions in the GMR-2.0 District is required.*

**Section 5.06.4.d.1.c.iii - General Business and Medical Research (GMR):** In the area described in Section 5.06.4.d.1.c.iii in which the height of 65' is permitted, a special permit may be granted for substantial rooftop structures exceeding the height limit by an amount greater than 10 feet. *Special permit is required for limited rooftop structures on the garage (consisting of mechanical equipment and an elevator penthouse) that exceed the 65' limit by more than 10 feet.*

**Section 5.06.4.d.2.f - General Business and Medical Research (GMR):** The number of parking stalls within the GMR-2.0 District shall not exceed 683, excluding drop-off and loading zones, but the Board of Appeal may approve, based on the criteria of Section 9.05, the accommodation of up to 20% more vehicles within a garage through managed parking. *Special permit is required for accommodation of up to 137 additional vehicles (20% of 683) through managed parking.*

**Section 5.06.4.d.5 - General Business and Medical Research (GMR):** A Special Permit to allow signs on building walls not parallel or within 45 degrees of parallel to the street. *Since buildings in the proposed development are being designed to integrate with the property as a whole, including a pedestrian walkway interior to the property, signage will be placed facing the pedestrian walkway which will not be parallel or within 45 degrees parallel to the street. Special permit is required.*

**Section 5.09 - Design Review:** a major impact project for a new structure, outdoor uses, and exterior alterations and additions in the GMR-2.0 District shall be subject to the requirements of Section 5.09. *Petitioner has submitted an Impact Statement that addresses community and environmental standards.*

**Section 5.31.1 - Exceptions to Maximum Height Regulations:** Substantial rooftop structures such as elevator penthouses and mechanical equipment may not exceed the height limit by more than 10 feet unless a special permit is granted by the Board of Appeals. In this instance, the mechanical equipment consisting of stacks and pipes may be up to 25 feet above the building's height limit of 115 feet. *Special permit required for substantial rooftop structures exceeding the height limit by more than 10 feet or, in the alternative, a finding that the proposed rooftop stacks and pipes above 125 feet are not "substantial."*

**Section 5.43 - Exceptions to Yard and Setback Regulations:** The Board of Appeals may by special permit modify the yard and setback requirements provided that such modification assures the same standard of amenity to nearby properties as would have been provided by compliance with the Zoning By-law, as measured by off-setting a reduction in the depth or area of a required yard or setback by an increase in the depth or area of another yard or setback or by the provision or preservation of a condition or a facility not otherwise required that will counterbalance such a reduction. *The yard requirements of Footnote #1 to the Table of Dimensional Requirements provide that if the entrance to a garage or covered vehicular passageway faces toward the street to*

*which its driveway has access, said entrance shall be at least 20 feet from the street lot line. As noted above, special permit is required, because the entrances to the garage on Pearl Street are less than 20 feet from the street lot line. Also, Petitioner has requested a special permit for exception to the Yard Regulation requiring a 9 foot Front Yard Setback from Washington Street.*

**Section 6.04.3 - Off-Street Parking Space Regulations:** Tandem parking is allowed by special permit for a parking facility under full-time attendant supervision. *The Petitioner will accommodate the additional number of vehicles in the garage through managed parking with full-time attendant supervision. A special permit is required (unless authorized in the GMR 2.0 District by the special permit requested under Section 5.06.4.d.2.f).*

**Section 6.06.7 - Off-Street Loading Regulations:** The applicable loading bay requirement can be reduced by special permit, “[w]here the adequacy of the reduced number of loading bays can be demonstrated based on the proposed uses, hours of operation, delivery service requirements, and allocation of loading facilities across the various uses and buildings.” *Section 6.06 requires one loading bay for the 47,000 SF expansion of 1 Brookline Place and four loading bays for the 182,500 SF building to be known as 2 Brookline Place. The proposed development will have 3 loading bays at 2 Brookline Place and will continue use of 1 loading bay at 1 Brookline Place. A Special Permit is required for reduction of required loading bays from five to four*

**Section 7.00.1.b - Signs in all Districts:** No sign or other advertising device, or part thereof, shall be more than 25 feet above ground level, except the Board of Appeals by special permit may allow signs announcing the name of an individual building to be higher than 25 feet. *Petitioner has proposed three signs at the following heights: west elevation – 125 feet (2 Brookline Place), south elevation - 125 feet (2 Brookline Place), and south elevation – 79 feet (1 Brookline Place). Special permit is required.*

Ms. Sticklor made the following comments as to the special permits:

**Section 5.06.4.d.1** establishes special permit criteria which must be met by a Major Impact project, in addition to the special permit criteria of **Section 9.05**, all of which are met by the Project:

- (i) The maximum height does not exceed 115 feet, measured in accordance with Section 2.08.3 and Section 5.06.4.d.3.a of the Zoning By-Law, and the FAR of all lots within the GMR 2.0 District does not exceed 3.45; (ii) no less than 35% of the total area of all lots within the GMR 2.0 District is devoted to open space determined in accordance with Section 5.06.d.3 (hard surfaced walks and plazas do not exceed 55% of the total area required for such open space); (iii) the buildings conform to the special dimensional requirements set forth in Section 5.06.4.d.1.c.i-v and illustrated in the Figure at the end of Section 5.06.4.d; (iv) no less than 25% of the parking spaces provided will be made available at market rates to residents for overnight parking; and (v) 1% of hard construction

costs (excluding tenant fit-up) will be devoted to making off-site streetscape improvements and undertaking transportation and community benefit mitigation measures.

**Section 5.06.4.d.2**--Ms. Sticklor noted the following with respect to the number of parking spaces: (1) **Section 5.06.4.d.2** provides that parking for the GMR 2.0 District is reviewed as a single lot without regard to lot ownership; (2) Based on the uses anticipated by Petitioner, the GMR 2.0 District will require 714 parking spaces (plus any additional spaces needed for retail uses on the ground level of 1 Brookline Place); (3) Petitioner will operate under a TDM program, and the analysis of Petitioner's traffic consultant assumes the implementation of the TDM program; (4) The traffic consultant analysis demonstrates that not less than 106 parking spaces additional to the 714 spaces are warranted and will not substantially impact traffic, in particular because the medical office spaces are used throughout the day and not especially during the peak traffic hour; (5) Sufficient parking is required since there are risks to providing insufficient parking both to traffic and to having spillover onto streets of patrons looking for parking; (6) Insufficient parking will cause patients and visitors to use on-street parking in nearby neighborhoods, thus making such parking unavailable to Brookline residents and businesses; (7) Petitioner must create sufficient parking in order to finance and lease the Project in the current market; and (8) The nature of medical office care, in particular involving children, is such that patients and visitors as a practical matter will often need to drive to the Project rather than be able to utilize public transportation.

**Section 5.09**--With respect to Design Review, Petitioner has submitted an Impact Statement that addresses community and environmental standards and the results of the Project's design review are reflected in the Planning Board report, which supports the Project.

**Section 5.31.1**--This section provides that "substantial" rooftop structures may not exceed the height limit by more than 10 feet. Because there will be stacks and pipes above this limit, Petitioner is requesting either a special permit under this Section related to the stacks and pipes, or a confirmation by the Board that stacks and pipes above the 10 foot limit are not "substantial."

George Cole, Principal at Stantec Consulting, then provided a review of the history of the Project, noting that the redevelopment of Brookline Place has been under consideration since at least 2003, has been the subject of multiple Town Meeting votes and subject to extensive review by various Town agencies and the Project's Design Advisory Team, and is consistent with the *Brookline Comprehensive Plan 2005-2015* and *Brookline's Gateway East Public Realm Plan*. Mr. Cole reviewed the development scheme the Town approved in 2009 and explained that market

conditions, most notably the economic recession, prevented the “2009 Scheme,” which included subsurface parking and extensive hazardous material remediation costs, from moving forward to construction. Upon realizing that it was not feasible to construct the 2009 scheme in the then current real estate market, the Petitioner re-assessed its development program and applied a new approach for moving forward, including re-evaluating parking solutions, overall site planning and accommodating existing tenants.

Mr. Cole explained that the new approach to the development resulted in a renewed dialogue with the Town that began in the Summer of 2013, which ultimately resulted in the Town Meeting adopting a zoning amendment and the Selectmen entering into a Memorandum of Agreement with Petitioner in the Spring of 2014.

A presentation was then made by Tim Talun of Elkus Manfredi, the Project architect, who provided an overview of the Project’s location and conceptual design. Mr. Talun explained that the new approach focused on providing a direct pedestrian connection across the Site, providing a comfortable pedestrian environment with active retail and dividing the building mass into two smaller pieces pulled away from Washington Street. Using visual aids, including aerial representations, elevations and site plans, Mr. Talun reviewed the Project’s scale, massing, materials, site plan and vehicular and pedestrian circulation.

Using the elevations, Mr. Talun reviewed the Project’s rooftop mechanical equipment, which will not be visible from street level due to the proposed rooftop mechanical screen, the signage location and the anticipated elevator height. In response to a question from the Board, Mr. Talun explained that there is no opportunity to lower the proposed signage locations because of the glass facades, which will incorporate light and visibility into the design. Mr. Talun concluded by explaining how the Project complies with the applicable dimensional and signage requirements and where relief is needed.

Mikyoung Kim of Mikyoung Kim Design, the Project’s landscape architect, then described the property and the Project’s landscaping design. Ms. Kim explained that the guiding principles of the landscape design are to (i) create a vibrant public gathering space with “Outdoor Rooms,” (ii) integrate sustainability into the landscape campus, (iii) create a universally accessible landscape space, (iv) establish visual physical connections from architecture to landscape, (v) create an easily maintained durable green space, and (vi) create a strong landscape character with programming and design. Using visual aids, Ms. Kim presented the Project’s landscape elements, including the



proposed outdoor rooms, the landscaped site plan, paths and movements through the Site, open spaces, plaza spaces, gardens, creation of and integration with the urban street edge and proposed plantings. Ms. Kim then utilized perspective views to illustrate the pedestrian experience moving through the Site. In response to a question from the Board, Ms. Kim and Mr. Talun reviewed the distances between the buildings at varying points in the open space area.

Ms. Sticklor then summarized the manner in which the Project meets the open space requirements, explaining that 39% of the total area of all lots within the GMR 2.0 District is devoted to open space (in excess of the 35% required) with hard surfaced walks and plazas not exceeding 55% of the total area required for such open space.

Robbie Burgess of Howard Stein Hudson Associates then discussed the Project's traffic impacts. Mr. Burgess explained that the land uses proposed for the Project would consist of Retail (14,000 SF), Medical Office (166,000 SF in 2-4 Brookline Place, 105,120 SF in the existing 1 Brookline Place and 47,000 SF in the One Brookline Place Addition), and that studying the program as all medical office (instead of a mix of medical and general office) is the most conservative evaluation because medical office generates more trips. Mr. Burgess also explained the transportation mode splits applied to the analysis of the Project, which were based on Children's documented experience in the Longwood Medical and Academic Area (LMA). For employees, the mode split is 35% automobile, 44% transit and 21% walk/bike/other. For patients and visitors the mode split is 60% automobile, 30% transit and 10% walk/bike/other.

Mr. Burgess then reviewed the trip generation for the Project and noted that the analysis was conducted both with and without the infrastructure improvements proposed under Brookline's Gateway East Public Realm Plan, resulting in the most conservative evaluation. Mr. Burgess also noted that the trips generated by the medical office are spread throughout the day, unlike general office trips which are more likely to be consolidated in the morning and afternoon peak periods.

Mr. Burgess provided an overview of the intersections studied and the methodology employed, including an analysis of the existing conditions, followed by a modeling of the "No-Build" scenario (which studies the existing conditions, along with an assumed background 1% traffic increase per year for five years and the increased traffic associated with other known proposed developments which are not constructed but which are in the process of permitting or development) and a modeling of the "Build" scenario (which studies the No-Build scenario, as impacted by the Project's estimated traffic impacts). Using visual aids, Mr. Burgess reviewed the

traffic impacts on intersections proximate to the Project. By way of specific impacts, Mr. Burgess indicated that the roadways surrounding the Property currently experience substantial traffic volumes and that the traffic situation will be negatively impacted under both the No Build and the Build scenarios. The Build scenario (with the proposed mitigation) presents few additional adverse traffic impacts as compared to the No Build scenario. Mr. Burgess indicated, moreover, that Petitioner's funding of the installation of a traffic signal at the intersection of Pearl Street and Brookline Avenue, which is rated "F" under the No Build scenario, will greatly improve the traffic flow from Pearl Street onto Brookline Avenue and will improve this intersection to a rating of "B". Mr. Burgess further indicated that Petitioner will be implementing an aggressive TDM program to reduce automobile traffic on the roadways. Mr. Burgess further observed that his analysis had been reviewed, commented upon and approved by the Town's peer review consultant, Beta Engineering.

Mr. Burgess explained that **Section 5.06** of the Zoning By-Law requires one parking space per 533 GSF of retail use, one parking space per 467 GSF of medical office use, one parking space per 800 GSF of office use, one parking space per 1,650 GSF of child care use, and one parking space per 1,250 GSF of research laboratory use within the GMR-2.0 District. As a result, 714 spaces will be required by the Zoning Bylaw, which consists of 26 spaces for the retail uses, 681 spaces for the medical office uses and 7 spaces for the daycare use.

In addition to the 714 spaces required by the Zoning Bylaw, Mr. Burgess indicated that the Petitioner anticipates that 106 additional valet spaces will be needed to (i) provide an operational buffer, (ii) ensure peak demand can be met, (iii) accommodate market demand, (iv) reduce re-circulation on Town streets, and (v) preserve on-street public parking. These additional valet spaces would only be utilized when necessary. The Petitioner will implement an aggressive TDM program consisting of the measures similar to those which have been documented to reduce vehicle trips and parking demand in the LMA. Mr. Burgess explained that data will be collected and submitted to the Town to demonstrate the effectiveness of the TDM. If the Project is not achieving a 35% vehicular mode split for employees, the Town may request reasonable modifications to the TDM.

In response to the Board's inquiry as to where the valet will physically park cars, Mr. Burgess explained that vehicles will be tandem parked in the garage in a manner that allows for the valet operations and self-parkers to utilize the garage simultaneously without disruption. In response to the Board's inquiry as to how the Petitioner determined that 820 spaces are needed instead of the 714 spaces required by zoning, Mr. Burgess explained that his model utilized both

Urban Land Institute (ULI) and comparable Boston-based Children's Hospital facility parking demand data to determine that 832 spaces are required to satisfy the anticipated demand.

Additionally, he adjusted a model previously prepared by Nelson\Nygaard Consulting Associates to correct certain parameters that have changed since the prior program and that model showed 825 spaces will be necessary to satisfy anticipated demand. Accordingly, the models prepared by Howard Stein Hudson and Nelson\Nygaard Consulting Associates determined that between 825-832 spaces will be required. The Petitioner has requested 820 because it is the maximum number allowable by special permit under the Zoning By-Law.

Ms. Sticklor then summarized the Mitigation and Public Benefits to be provided by the Project: The Project will pay real estate taxes regardless of ownership; The Petitioner will pay 1% of hard construction costs (exclusive of tenant fit-up) to be used by the Town for off-site streetscape improvements and transportation and community benefit mitigation measures; the Petitioner will construct a signalized intersection at Pearl Street and Brookline Avenue and will fund \$335,000 to be used towards reconstruction of Pearl Street; the Petitioner will implement an extensive Transportation Demand Management Program, including annual reporting to the Town and adjustment if employee vehicular mode share exceeds 35%; a permanent pedestrian easement will be provided through the Site and the Petitioner will allow the Town to use the open space at the Project for 3-4 annual public events; the Petitioner will make 25% of the parking spaces available to residents for overnight parking at market rates; the Petitioner will implement a Brookline Residents Permanent Employment Program; the Project will generate significant net new tax revenues and will provide the Town with real estate tax certainty for 95 years for all new building areas; the 1% of hard cost contribution (exclusive of tenant fit-up) will be made in a time frame which will fund the Town's Gateway East Public Realm Plan proposal prior to commencement of that project; the Project will generate an estimated new daytime population of about 1,000 workers to support Brookline Village businesses; the Project will provide much improved connections through and around the Site and significant new green space; the Project will ensure the protection of open space and pedestrian way through the Site; and the Project has been designed to be energy efficient (i.e., LEED Silver certification).

Ms. Sticklor then summarized the manner in which the Project meets the requirements of **Section 9.05** for the issuance of a special permit: (a) The Property is an appropriate location for the use and structure. The Property is located in a general business and medical research zoning

district, and the Project's uses and dimensions are all permitted under the Zoning By-Law by special permit at the Site and, in fact, are contemplated at a conceptual level by the October 2006 Gateway East Public Realm Plan; (b) The use as developed will not adversely affect the neighborhood. The structures and uses proposed will benefit the neighborhood by providing open space and public amenities as well as generating substantial sums to be used for mitigation, and will further benefit the neighborhood in terms of provision of overnight parking; (c) There will be no nuisance or serious hazard to vehicles or pedestrians. Traffic studies have been performed and approved by the Town showing that traffic generated by the Project will not adversely affect the neighborhood and will not be a hazard to vehicles or pedestrians; (d) The Project will provide adequate and proper facilities for its use; (e) The Project will not have a significant effect on the supply of housing available for low or moderate income people.

In response to the Board's inquiries, Mr. Talun then explained the location and configuration of the loading bays and the height and location of the pipes located on the roof. Additionally, in response to the Board's inquiry as to whether the Memorandum of Agreement with the Town stipulated that the Petitioner would only request 15% additional parking spaces through managed parking, Ms. Sticklor explained that the provision was intended to allow the Petitioner to request 20% but that the Memorandum of Agreement specified that Petitioner could not reject a special permit granting 15%.

The Chairman then requested comments from Kara Brewton, Brookline Director of Economic Development, and Jaklyn Centracchio of Beta Group, Inc., the Town's peer review consultant.

Jaklyn Centracchio of Beta Group, Inc., the Town's peer review consultant, explained that Beta Group, Inc. reviewed the Petitioner's Traffic study in December of 2013 and requested back-up crash data, pedestrian and bicycle data, a signal warrant analysis, trip generation methodology and modifications to the mode split, which was submitted by Petitioner's traffic consultant on December 31, 2014. In response to the Board's inquiry, Ms. Centracchio indicated that the intersections covered by the report were all those that should be included and reviewed, the methodology for peak hour traffic is correct and that the Petitioner has responded to all of her comments.

Kara Brewton, Brookline Director of Economic Development, presented comments with respect to the Petitioner's request for 20% additional vehicles through managed parking in the

garage. Specifically, Ms. Brewton indicated that her recollection of the negotiations was that the Petitioner was willing to limit their valet operations to 15% as reflected in the Memorandum of Agreement.

In response to Ms. Brewton's comments, Ms. Sticklor explained that the provision in the Memorandum of Agreement was intended to allow the Petitioner to request 20% additional parking spaces through managed parking but that the Petitioner could not reject a special permit granting 15%. However, Ms. Sticklor further stated that the Petitioner is willing to forego its request for 20% at this time and would accept 15%.

The following Brookline residents then spoke in support of the Project:

Paul Saner, 462 Chestnut Hill Avenue, Co-Chair of the Brookline Economic Development Advisory Board, expressed his support for the Project and the growth that it will provide, including a tax guarantee agreement, \$1.6 million dollars in benefits and perpetual easements. He supports the Petitioner's willingness to limit its request to 15% additional vehicles and commends the long public process that led to the rezoning for this Project.

Neil Wishinsky, 20 Henry Street, Member of the Board of Selectmen, expressed support for the Project and noted that there has been a substantial amount of give and take between the Town and the Petitioner. He also supports the Petitioner's willingness to limit its request to 15% additional vehicles.

Edie Brickman, Brook House, expressed support for the Project. She noted that she appreciates the Petitioner's willingness to limit its request to 15% additional vehicles. She indicated that she would prefer lower signs and would like to see the Board encourage buses as well as use of the D line. She noted that the Town is in need of new sidewalk snow removal equipment and encourages the Town to use revenues from this Project to purchase such equipment. She indicated that the Design Advisory Team and the Petitioner have worked very hard on the application and that she is pleased with the final design.

Tommy Vitolo, 153 University Road, Precinct 6 Town Meeting Member, expressed his support for the Petitioner's willingness to limit its request to 15% additional vehicles and would like to see bicycle lanes and more bicycle storage.

Linda Olson Pehlke 48 Brown Street, Unit 2, Brookline Place Advisory Committee,

expressed concern about the applicant's request for additional parking, indicating that the applicant should evidence its need for the additional managed parking before being granted any right to no more than 15% additional vehicles. She also indicated that she was concerned that the location of the open space pathway differed from the conceptual design approved at Town Meeting and fails to achieve the benefits intended by that conceptual design. She further expressed concern that the 35% automobile mode split is not beneficial enough and questioned why the calculation failed to account for reductions realized due to the TDM. Ms. Pehlke urged the Board to review the methodology by which the applicant calculated its need for parking.

Hugh Mattison, 209 Pond Avenue, expressed his concern about exceeding 15% additional vehicle spaces and indicated the importance of maintaining a 15% maximum. Mr. Mattison noted that the parking supply does not account for the 80 spaces on adjacent streets which may be utilized by patients and visitors and noted that the area is transportation rich. Mr. Mattison asked that additional parking be made available for motorcycles.

Andrew Fisher, 21 Bartlett Crescent, Town Meeting Member, expressed his concern about exceeding 15% additional vehicles and indicated that this should only be allowed if there is an absolute need. He believes the on-street spaces can accommodate any operational deficiency that will exist. Mr. Fisher stated that the current parking garage is largely vacant and indicative of the lack of demand for parking. He noted that the Board should not grant the 15% unless the Petitioner demonstrates an absolute need. Overall, Mr. Fisher expressed his support for the proposal as a major development near the T as a gateway, which reflects transit oriented principles. However, he does not believe that the mode split is consistent with actual demand and usage experienced by the existing parking garage and questioned the efficacy of the TDM. He asked the Board to uphold the 15% maximum for additional vehicles provided an adequate showing of their need is made.

Richard Simonelli, a Brook House condominium owner, expressed his support for the Project if it is done right. From his 7<sup>th</sup> floor unit at Brook House, Mr. Simonelli indicated that he can see Brookline Place and the 1 Brookline Place lights and is concerned about light spilling into his Unit. He would like the signs to be transparent so they will not impact the views of the higher floors and is concerned about the negative impact of the lighting. Mr. Simonelli also expressed his concern over noise and other disturbance from the construction and requested an explanation of the associated construction noise and vibration. He also requested advance warning of (by giving a firm date) for the commencement of construction.

Merelice, 22 White Place, Precinct 6 Town Meeting Member, expressed her concern with what she believes to be a change in the number of parking spaces requested. She also feels that the pedestrian open space within the Project has been modified and could be much more open than proposed.

The following Brookline resident then spoke in opposition to the Project:

Sarah Smith, Brookline Village resident, expressed her concern about the potential traffic impact to an office building she owns nearby, as well as to her personal residence. She noted that the Project will increase the existing stress on public transit and the roadways. Additionally, Ms. Smith noted concern regarding the shadow impacts of the Project and that shadow studies were lacking.

In response to the Board's inquiry, Ms. Sticklor confirmed that the Petitioner is not requesting approval of a specific sign at this time, only the relief to allow signage. Specific signage proposals will be subject to later Planning Board approval.

Lara Curtis Hayes then read the following report from the Planning Board:

The Planning Board is strongly supportive of this development proposal. This is an underutilized site whose redevelopment will revitalize the neighborhood and provide substantial amenities to the Town. The Design Advisory Team (DAT) and the development team have met regularly since the summer of 2014 to discuss and address design concerns and possible impacts on the neighborhood. The ground-floor retail space and significant landscaped open space being provided with this development will enhance the vitality of the immediate area and have a positive impact on the economic viability of the Brookline Village commercial area.

The contemporary design of the new Two Brookline Place building, parking garage, and One Brookline Place addition relates well to surrounding buildings in the neighborhood. The buildings have different but complementary façade treatments, lending cohesiveness to the site while still retaining an interesting dynamic. While the Planning Board had some specific concerns regarding the development's design, such as the scale of the garage's façade and the treatment for the upper level of 2 Brookline Place, these issues can be addressed later; the overall design is attractive and

has improved since the applicant's initial submission. Since the buildings will, at a minimum, meet the requirements of LEED Silver certification, the Board hopes the project will be an example of energy efficient building for future developments in Brookline.

As mitigation measures to address increased traffic in the area, the applicant has agreed to make improvements to relevant intersections, implement a Transportation Demand Management program, and provide residential overnight parking. The Transportation Demand Management Program will be reviewed annually. Additionally, as per the requirements of the GMR-2.0 district, a contribution of 1% of the hard construction costs will be put toward off-site streetscape improvements and transportation and community benefit mitigation measures. The Town's traffic consultant has reviewed the Traffic Impact Study from Howard/Stein-Hudson Associates (December 2014) and found it satisfactory. Suggested parking and traffic mitigation measures have been included as conditions below.

Therefore, the Planning Board recommends approval of the proposal and the submitted plans entitled "Brookline Place, Brookline, Massachusetts, Special Permit Application Set," prepared by Elkus | Manfredi Architects dated 12/22/2014, subject to the following conditions:

1. Uses in the One Brookline Place addition and the 2 Brookline Place building shall be medical office, general office, ground floor retail and accessory uses. The proportions of medical office and general office in the buildings may be determined by the applicant from time to time but may be all medical office, if so dictated by the needs of the applicant and tenants, however, the ground floor of the Two Brookline Place building shall be retail along with common area, and, at the election of the applicant, the ground floor of the One Brookline Place addition may also be retail along with common area, medical office and general office. Accordingly, the Transportation Demand Management plan has been based on use of the buildings for all medical office use with ground floor retail in the 2 Brookline Place building.
2. The parking garage shall have not more than 683 striped parking spaces, excluding drop-off and loading zones, and shall be available to meet the parking requirements of all buildings within the GMR-2.0 District. The applicant shall be allowed to park up to 137 additional vehicles within the garage, which may be in tandem parking arrangement and/or any other



parking arrangement, operation or devices that enable additional vehicles to be accommodated within parking garages. The applicant shall submit a list of Managed Parking Operational Provisions to the Director of Engineering/Transportation for review and approval prior to commencement of any tandem parking arrangement and/or any other parking arrangement, operation or devices that enable additional vehicles to be accommodated within parking garages.

3. Prior to the issuance of a demolition permit for any building on the site, the applicant shall obtain from the Preservation Commission all applicable certificates of non-significance for structures to be removed or partially demolished.
4. Prior to the issuance of a demolition permit for any building on the site, a final construction management plan, including interim parking conditions for existing One Brookline Place, identification of any specimen trees that will be dug and relocated offsite with the permission of the Tree Warden, parking locations for construction vehicles, hours of construction and materials delivery, noise mitigation, staging areas, security fencing, pedestrian pathways, location of portable toilets, rodent control, erosion and sediment control, protocols to insure protection of persons in the vicinity of the construction work, including air quality monitoring during activities involving disturbance of contaminated soils or management of any contaminated media, emergency contact information, and the name and contact information for a project liaison provided by the applicant, shall be submitted for review and approval by the Director of Engineering/Transportation, after input from the Building Commissioner, Health Director and Conservation Agent/Tree Warden. The construction management plan shall also include the manner of treatment of trees to be preserved or to be removed within the public way abutting the site. A copy of the approved plan shall be submitted in paper and electronic form to the Planning and Community Development Department such that it can be posted on the Planning and Community Development Department's website.
5. Prior to issuance of a demolition permit for any building on site, the applicant shall submit to the Director of Public Health for review and approval details regarding the plans for environmental remediation of the site, as well as long-term environmental monitoring of the

site post remediation and construction of the buildings. Any changes to these plans shall be submitted to the Director of Public Health prior to implementation.

6. Prior to issuance of a demolition permit for any building on site, the applicant shall submit to the Fire Department for review and approval a Safety Plan, detailing how the sprinkler, standpipe, and fire alarm systems will be maintained during demolition, as well as ensuring adequate emergency access during demolition.
7. Prior to issuance of a building permit for any of the 2 Brookline Place building, 1 Brookline Place addition, or parking garage, as applicable, the applicant shall submit to the Fire Department for review and approval a Safety Plan for the new building to be constructed, including details regarding the emergency access and life safety systems on site, and evidence of adequate water pressure for fire suppression systems in all new construction.
8. Prior to the issuance of a building permit for any of the 2 Brookline Place building, 1 Brookline Place addition, or parking garage, as applicable, final elevations indicating façade design, colors, materials, windows, rooftop details, penthouse configuration and screening, signage, and placement of all mechanical, electrical and plumbing systems and components of the applicable buildings or the garage shall be submitted for review and approval of the Planning Board. An on-site mock-up shall be submitted for the review and approval of the Planning Board after the building permit is issued but before the materials are ordered.
9. Prior to the issuance of a building permit for either the 2 Brookline Place building or the 1 Brookline Place addition, final site and landscaping plans for the entire site, including plant types and sizes; a full existing and proposed tree inventory; planting depth details for proposed plants and trees on both private and public property, and information about the planting strategy relative to any capping of the subsurface; fencing; exterior lighting; location of utilities and bicycle parking facilities; hardscape materials and outdoor furniture for the entire site shall be submitted for the review and approval of the Planning Board and the Town's Tree Warden. This landscaping plan shall include landscaping for the public property located between the site's Washington Street and Brookline Avenue property lines and the back of the sidewalks on the same streets, and the applicant shall be responsible for

installing and maintaining this landscaping at the same level as the rest of the site's landscaping, provided that the Town issues a license satisfactory to the applicant for such installation and maintenance on public property.

10. Prior to the issuance of a building permit for any of the 2 Brookline Place building, 1 Brookline Place addition, or garage, a bond of 150% of the estimated construction cost for the construction and landscaping of the approved pedestrian walkway and open-space improvements shall be submitted to the Building Department. The Building Commissioner and/or the Director of Planning and Community Development shall notify the applicant in writing if they reasonably determine that the project is only partially completed, without all approved buildings and/or additions constructed, and that construction by the applicant will not continue. If within thirty (30) days of receiving such notice the applicant fails to agree to diligently undertake such actions required to complete the work remaining on construction and landscaping of the approved pedestrian walkway and open-space improvements, the Town may redeem the bond to undertake completion of the approved pedestrian walkway and open-space improvements. The Town shall return to the applicant any amounts redeemed in excess of the actual costs incurred to construct and landscape the approved pedestrian walkway and open-space improvements.

11. Prior to the issuance of a building permit for any of the 2 Brookline Place building, 1 Brookline Place addition, or parking garage, a drainage plan shall be submitted for review and approval of the Director of Traffic/Engineering and the Conservation Agent.

12. Prior to the issuance of a building permit for any of the 2 Brookline Place building, 1 Brookline Place addition, or parking garage, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision:

- 1) a final site plan, stamped and signed by a registered engineer or land surveyor, including fencing, grading, and location of utilities;
- 2) final building elevations including exterior signage generally as indicated on the application plans, stamped and signed by a registered architect;
- 3) final floor plans, stamped and signed by a registered architect;
- 4) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

13. Prior to the issuance of a building permit for either the 2 Brookline Place building or 1 Brookline Place addition, the applicant shall provide evidence reasonably satisfactory to the Building Commissioner and Director of Planning and Community Development that the applicable building is a LEED certifiable Silver Building or higher rating via the provision of a LEED scoring sheet. Prior to the issuance of the final Certificate of Occupancy for the 2 Brookline Place building or the 1 Brookline Place addition, as applicable, the applicant shall provide a final LEED Checklist and an Affidavit of Construction Compliance prepared by a LEED Accredited Professional and/or project architect.
14. The Applicant will not commence demolition of the existing structure at 2 Brookline Place until a building permit for the garage has been issued with evidence reasonably satisfactory to the Director of Planning and Community Development and Town Counsel, provided on a confidential basis, that financing is or will be in place for construction of the 1 Brookline Place addition and 2 Brookline Place building, exclusive of tenant fit-up, and the garage.
15. At the completion of the perimeter foundation walls for any of the 2 Brookline Place building, the 1 Brookline Place addition, or the garage, as applicable, and prior to the issuance of a building permit for the above-ground portion of the building, an as-built foundation plan certified by a registered professional engineer or surveyor to be in accordance with the approved site plan shall be submitted for review and approval by the Building Commissioner. If the as-built foundation is found to be non-compliant with the approved site plan, the Building Commissioner may stop above-grade construction activities until such time the foundation is brought into compliance with the approved site plan.
16. Up to three temporary construction and/or development sign(s), each no greater than 50 square feet, may be erected on site during the construction and initial leasing period, with the design subject to the review and approval of the Director of Planning and Community

Development (or his/her designee), who shall also have the authority to determine that the initial leasing period has ended when 80 percent of each of the 2 Brookline Place building and the 1 Brookline Place addition is occupied.

17. Prior to issuance of a building permit for any signage for the 2 Brookline Place building, the 1 Brookline Place addition or garage, other than the signage referenced in condition #16 above, final design plans for the sign(s) shall be submitted to the Planning Board for review and approval.
18. A minimum of 25% of parking spaces in the garage shall be offered to residents for overnight parking at market-competitive rates. These spaces shall be available at a minimum from 8 p.m. to 7:30 a.m. weekdays and all day Saturdays and Sundays. If the Applicant chooses to provide more parking spaces for overnight use, these minimum hours of availability shall not apply to these additional spaces. Additionally, if the applicant wishes to provide parking on weekends and holidays and during weekdays after 6 p.m. and before 1 a.m. for users of area businesses, such as restaurants, this shall be allowed.
19. No satellite parking shall be allowed, except as indicated in condition #18 above. Satellite parking is defined as parking used by persons working a majority of their time at another location(s), who are not visiting the building. Toward that end, the Applicant shall employ techniques including preferential parking rates for tenants and visitors, and higher parking rates for non-tenants over a specified number of hours per day.
20. No less than thirty (30) days prior to the anticipated date of issuance of the building permit for either the 1 Brookline Place addition or 2 Brookline Place building, whichever first occurs, a Transportation Demand Management (TDM) plan shall be submitted to the Town for review and approval by the Director of Engineering/Transportation and the Director of Planning and Community Development (or his/her designee). In connection with preparation of the TDM plan, the applicant shall provide information describing its existing policies relating to employee transportation then in effect, and the mode use resulting from such existing policies. Any tenant in the development that has executed a lease for

occupancy at the 1 Brookline Place addition or 2 Brookline Place building shall be requested to provide such information as to its existing policies relating to employee transportation then in effect in other locations operated by such tenants, and the mode use resulting from such existing policies in such other locations. The TDM shall include, but is not limited to, the following provisions:

- a. Include a garage lay-out plan showing no more than 683 striped parking spaces available for use and companion table showing locations, numbers, and users of different types of parking spaces, including, but not limited to: compact, full car, handicap, drop-off, van, electric car, car-sharing services such as Zip-Car and employee, visitor, resident overnight, loading and ambulance spaces.
- b. Include a requirement for employee vehicle identification parking stickers or tags.
- c. Outline initial parking rates for employees, visitors, and residential overnight parkers.
- d. Indicate how and where information will be provided and displayed (including the lobbies) on all public and other transit options to Brookline Place, with an explanation of which services are for employees only, which are open to the public in general, and the percentage of employees using different modes of transit.
- e. Provide for sale of MBTA transit passes on-site.
- f. So long as the 1 Brookline Place addition and 2 Brookline Place building are operated by Children's Hospital Boston or any affiliate of Children's Hospital Boston ("Children's"):
  - (i) Provide for Children's employees working within the 2 Brookline Place building or the 1 Brookline Place addition not less than a 50% public transit employee annual subsidy program, or such greater level as is then being provided by Children's to its employees at its core campus within the Longwood Medical and Academic Area;

- (ii) Provide other transit programs, such as MASCO's "Three for Free" (try public transit for three months for free) and a "Guaranteed Ride Home" for Children's employees working within the 2 Brookline Place building or 1 Brookline Place addition;
  - (iii) Provide an employee tax benefit program through the Federal Transit Administration allowing employers to receive a tax deduction for providing transit subsidies and allowing employees to use pre-tax income to pay for transit expenses for Children's employees working within the 2 Brookline Place building or 1 Brookline Place addition;
  - (iv) Provide shuttle service, at a minimum, to locations in the Longwood Medical Area, and use best reasonable commercial efforts to include access to satellite parking facilities either currently operated by MASCO or to be established by MASCO; and
  - (v) Encourage staggered work hours for Children's employees working within the 2 Brookline Place building or 1 Brookline Place addition.
- g. Provide for and maintain not less than 70 bicycle parking spaces, secure, sheltered from the weather, and shower facilities for all employees who may choose to bicycle to work, including bicycle spaces which may be located in the 2 Brookline Place building or 1 Brookline Place addition for use by employees and in the garage for use by employees or visitors. Outdoor bicycle parking will also be provided near the main building entrance for short term visitors.

21. No less than thirty (30) days prior to the anticipated date of issuance of the Certificate of Occupancy for either the 1 Brookline Place addition or 2 Brookline Place addition, the Applicant shall designate a traffic and parking coordinator to work with the Director of Engineering/Transportation and the Director of Planning and Community Development (or his/her designee) to ensure on-going implementation of all TDM-related efforts. The

coordinator shall allow access to the garage by the Town for review of the TDM plan implementation, coordinate and publicize all TDM-related efforts to building tenants, and shall coordinate with the Town to mitigate any impacts during construction of the Gateway East plan.

22. To ensure compliance with the TDM plan, the following provisions shall apply, which provisions shall also constitute the Transportation Access Plan Agreement required under Section 5.09.3.c.6.c of the Zoning By-Law:

- a. An Annual Report shall be provided by the Applicant's traffic and parking coordinator, subject to the review and approval of the Director of Engineering/Transportation and the Director of Planning and Community Development (or his/her designee) relative to the implementation and effectiveness of the TDM plan. The Annual Report shall be submitted prior to issuance of an annual permit for the Transportation Access Plan Agreement from the Building Department under Section 5.09.3.c.6.d of the Zoning By-law. The Annual Report, which shall be submitted together with the applicant's request for the annual permit for the Transportation Access Plan Agreement, shall include the following features:
  - (i) An annual monitoring and reporting program will commence after receipt of the final Certificate of Occupancy for the 1 Brookline Place addition and the 2 Brookline Place building. If the final Certificate of Occupancy is issued between September 1 and February 29, the monitoring will take place during the months of September or October and a report provided to the Town no later than November 30. If the final Certificate of Occupancy is issued between March 1 and August 31, monitoring will take place during the months of April or May and be reported to the Town no later than June 30; and
  - (ii) The monitoring program will be based on traffic counts and employee surveys as to vehicle, transit, pedestrian, and bicycle usage to 2 Brookline Place and 1 Brookline Place, including the addition. The monitoring program will provide detailed information on the travel modes to work and overall transportation characteristics by type of traveler (employee, visitor, etc.). The survey instrument to be used for mode share monitoring will be provided to the Director of Engineering/Transportation and the Director of Planning and



Community Development for approval prior to conducting the survey. The employee survey (which may be conducted through electronic means) will be sent out to all employees, with a goal of securing a sixty percent (60%) minimum response rate. A patient/visitor survey shall be conducted during normal business hours, with a goal of securing at least 200 patient/visitor surveys. The requirement for the Annual Report shall be in effect for five years, and thereafter at the discretion of the Director of Transportation/Engineering and the Director of Planning and Community Development (or his/her designee).

- b. The Director of Engineering/Transportation, in consultation with the Director of Planning and Community Development, shall determine whether the employee vehicular mode share is greater than 35 percent. In the event the employee vehicular mode share is greater than 35 percent, the TDM plan shall be modified to incorporate any reasonable requests of the Director of Engineering/Transportation within sixty (60) days after he/she issues his/her determination. Failure to issue such a determination within sixty (60) days of receiving the Annual Report shall be deemed acceptance of the Annual Report and the existing provisions of the TDM plan. If any owner objects to any new request as being unreasonable or not required, such matter may be presented to the Transportation Board for recommendation to the Board of Appeals for determination, and during such process the applicant will not be considered out of compliance with Section 5.09.3.c.6.d of the Zoning By-law. Following the issuance (or deemed issuance) of the foregoing determination, the Building Department shall use its best efforts to issue the annual permit for the Transportation Access Plan Agreement under Section 5.09.3.c.6.d of the Zoning By-law with appropriate due diligence.

23. Prior to the issuance of the final Certificates of Occupancy for the 2 Brookline Place building and the 1 Brookline Place building, 1% of the hard costs of constructing 2 Brookline Place, the 1 Brookline Place addition and the garage (exclusive of tenant fit-up), shall be spent by the Applicant, or given to the Town, for making off-site streetscape improvements (such as, but not limited to, lighting, street furniture and widening sidewalks, subject to the review and approval of the Planning Board or its designee) and undertaking

transportation and community benefit mitigation measures. From the payment of 1% of the hard construction costs (exclusive of tenant fit-up), the amount of \$300,000 shall first be devoted to the demolition of the Hearthstone Plaza Bridge at Route 9 (the “**Bridge Demolition**”) and the amount of \$750,000 shall first be devoted to the Gateway East Project, and such payments by the applicant shall be credited against the 1% payment requirement, notwithstanding that such payments may have been made prior to the issuance of the Special Permit.

In the event the amount of the 1% of the hard construction costs (exclusive of tenant fit up) exceeds the Bridge Demolition and Gateway East Project Contributions, a plan of any proposed off-site streetscape improvements to be constructed by the Applicant and a description of the proposed transportation mitigation measures shall be submitted for the review and approval of the Director of Transportation/Engineering and the Director of Parks and Open Space or their designees. The applicant's obligation with respect to construction of off-site improvements shall be subject to approval by the various Town boards, commissions and department heads with jurisdiction over such off-site areas. The applicant shall, at the discretion of the Town, complete the improvements to the extent possible or provide the funds to the Town for expenditure by the Town prior to the issuance of such final Certificates of Occupancy, and the balance of funds that are unspent and uncommitted to the completion of these improvements at the time of the issuance of such final Certificates of Occupancy shall be paid to the Town.

24. In addition to the requirements of condition #23, the applicant shall provide the following off-site transportation and pedestrian improvements as may be approved by the Director of Engineering/Transportation and/or the Planning Board, each acting in their reasonable discretion:

a. At the Town's election, indicated to the applicant not later than one year prior to the date of anticipated issuance of final Certificates of Occupancy for the 1 Brookline Place addition and 2 Brookline Place building:

(i.) The Town shall indicate to applicant whether the Town will undertake the

**“Pearl Street Reconstruction”** consisting of improvements to the street lighting system on the south side of Pearl Street, reconstruction and installation of pavement and curbing along Pearl Street and landscaping and pedestrian markings and/or pavers that visually connect the Property to the Brookline Village MBTA. In the event such work will be undertaken by the Town, the applicant shall deposit \$335,000 in escrow to be expended by the Town for the reasonable costs of the Pearl Street Reconstruction. Any excess funds remaining after the completion of the Pearl Street Reconstruction by the Town shall be returned to the applicant.

- (ii.) If the Town does not undertake the Pearl Street Reconstruction, the Town shall undertake the design of such work and secure the required approvals and licenses therefor; subject to the foregoing, the Applicant shall commence construction of the Pearl Street Reconstruction within sixty (60) days of issuance of the final Certificates of Occupancy for 2 Brookline Place and the 1 Brookline Place addition, but shall not be required to expend more than \$335,000 for such design and construction.

- b. Within six (6) months of the issuance of the final Certificates of Occupancy for the 2 Brookline Place building and the 1 Brookline Place addition, installation of an audible traffic signal at Pearl Street and Brookline Avenue.

- 25. Prior to the issuance of the applicable final Certificate of Occupancy for any of the buildings on the site, complete as-built plans for the 2 Brookline Place building, 1 Brookline Place addition, and the garage, as applicable, certified by a registered architect as in compliance with the approved plans, shall be prepared and filed with the Building Commissioner.
- 26. To the extent permitted by law, prior to the issuance of the final Certificates of Occupancy for the 2 Brookline Place building and the 1 Brookline Place addition, the applicant shall implement for the benefit of Brookline residents and in particular residents of the

Brookline Housing Authority and Village Way, a "Brookline Residents Permanent Employment Program," a copy of which is attached as **Exhibit A**.

27. Prior to the issuance of the final Certificates of Occupancy for 2 Brookline Place and the 1 Brookline Place addition, a loading facility plan shall be submitted to the Director of Engineering/Transportation and the Director of Planning and Community Development setting forth the anticipated schedule of deliveries to the four loading bays provided (3 at 2 Brookline Place and 1 at the existing portion of 1 Brookline Place) based on the proposed uses, hours of operation, delivery service requirements, and allocation of loading facilities across the various uses and buildings. If deemed required by the Director of Engineering/Transportation and the Director of Planning and Community Development, the Applicant may be required to designate a Dock Master to coordinate and schedule deliveries to the buildings.
28. The applicant shall make available outdoor areas within the site for periodic use by the Town for approximately 3 or 4 community events annually without payment of a license fee by the Town, but subject to such limitations with regard to frequency, timing and use as the Town and the applicant shall reasonably agree and to reasonable rules and regulations which may be imposed by the applicant. In connection with such use, the applicant shall make available for use by the Town a storage area of approximately 400 square feet for the storage of certain recreational equipment associated with the Town's use of such outdoor areas.
29. The applicant shall comply in all material respects with any other conditions of that certain Memorandum of Agreement between affiliates of Children's and the Town, dated May 15, 2014, recorded with the Registry in Book 32771, Page 19.
30. In each instance in which the applicant is required to submit information or material (each a "Required Submission") to a board, commission, department or other official or staff member of the Town (each, a "Town Agent") for review and approval, the Town Agent will use its best efforts to review and approve the Required Submission with appropriate due diligence. Failure to review any Required Submission with appropriate due diligence shall be deemed approval of the Required Submission.

Michael Yanovitch, on behalf of the Building Department, expressed support for the Project, noting that the Building Department was comfortable that all necessary zoning relief had been applied for and could be obtained by special permit. Mr. Yanovitch indicated that he would like Condition 4 modified to require geotechnical monitoring continuously during construction and to require compliance with the building code.

Ms. Sticklor, on behalf of Petitioner, responded to certain issues raised. Ms. Sticklor reiterated the Project's need for additional parking through managed parking and clarified that the Petitioner was now requesting 102 additional vehicles (calculated at 15%). Ms. Sticklor also explained that the goal of the TDM is to achieve an employee automobile mode split of 35% or less. This information is based on the Petitioner's experience in the LMA where a robust TDM was being implemented; if the TDM were not in place in the LMA, the employee automobile mode split would be much higher. The Petitioner agrees to implement a TDM to reduce the vehicular mode share to 35% or less.

Ms. Sticklor also explained that the 45 foot pathway through the Site was conceptual in nature at the time of presentation to Town Meeting and that the refinement made to its location was in response to the Planning Board's request in reviewing the design.

Ms. Sticklor further explained that the existing garage has columns that impact its utility and result in a disproportionate amount of unused spaces, which is not indicative of demand.

Finally, Ms. Sticklor confirmed that signage will be subject to approval by the Planning Board as provided in the proposed conditions from the Planning Board.

In response to a question regarding shadow studies, Mr. Talun explained that shadow studies were completed and reviewed in the design process.

Testimony was then closed and the Board deliberated. In deliberations, Chairman Geller commented that he was satisfied by the Town's traffic consultant, Ms. Centracchio confirming the methodology used by the Petitioner in its traffic study and the conclusions reached. He believed that the Petitioner made a reasonable argument for why additional managed parking for the predominately medical office facility is needed and appropriate. For these reasons, Chairman Geller supported the applicant's request for accommodation of up to 102 additional vehicles through managed parking, representing a 15% increase for as-needed parking capacity.

Board Member Hussey noted that he is impressed with the process and the collaborative efforts between the Town and the Petitioner. He expressed his belief that the 15% additional vehicles accepted by the Petitioner is adequately covered by the conditions. Mr. Hussey commented that he is comfortable that the 45 foot pathway as configured is acceptable. Board Member Hussey also noted that he is comfortable with the signage as addressed by the conditions but suggested that the Petitioner consider lowering the signs for wayfinding purposes.

Board Member Book like Board Member Hussey, stated that the 45 foot passageway is provided in an acceptable configuration. Although he initially questioned whether the 15% additional vehicles should be contingent upon the percentage of the Project actually being utilized for medical office uses, for reasons articulated by Mr. Geller, he accepts the 15% additional vehicles without change in the proposed conditions.

Chairman Geller stated that he too believed the configuration of the 45 foot passageway is acceptable. Chairman Geller further noted that, with respect to the 35% mode split, he accepts the findings of the traffic study in reliance on the testimony from the Town's traffic consultant, although Mr. Geller expressed skepticism over use of public transit (in particular given the poor quality of public transit) by parents with sick children. The Chairman then observed that all relief requested could be granted by special permit, and noted that the Petitioner is offering amenities sufficient to merit the grant of a special permit under **Section 5.43** of the Zoning By-Law.

Chairman Geller stated that all requirements of **Section 5.09** and **Section 9.05** of the Zoning By-Law had been satisfied, that the use as developed will not adversely affect the neighborhood and that there will be no nuisance or serious hazard to vehicles or pedestrians.

Chairman Geller therefore recommended that the Board approve the Project and Board Member Hussey and Board Member Book concurred subject to the conditions provided below and based on the following findings:

1. The property is an appropriate location for the Project.

The property is located in a general business and medical research zoning district, and the Project's uses and dimensions are all permitted under the Zoning By-Law by special permit. The Project was contemplated at a conceptual level in the *Brookline Comprehensive Plan 2005-2015* and the October 2006 *Gateway East Public Realm Plan*. The Project's uses and dimensions are

compatible with the property's neighboring uses, and the Property is strategically situated in close proximity to a major vehicular transportation artery and well-served by public transportation.

2. The Project will not adversely affect the neighborhood.

The Project will activate the neighborhood and streetscape, and provide open space, landscape and public amenities. Based on the testimony, not less than 35% of the area of the GMR 2.0 District will be devoted to open space, developed with trees and shrubs, ground cover and grass, including other landscaped elements such as natural features of the site and walks and including areas developed for outdoor use and recreation; at least 25% of the Project's parking spaces will be made available at market rate to neighboring residents for overnight parking; and 1% of the Project's hard construction costs (exclusive of tenant fit-up) will be devoted to off-site streetscape improvements and undertaking transportation and community benefit mitigation measures. The Project has satisfied the Major Impact Project review requirements set forth in Section 5.09(3)(b) of the Zoning By-Law. Additionally, as confirmed by the Town's peer review consultant, the Project's traffic impacts will be acceptably mitigated.

3. There will be no nuisance or serious hazard to vehicles or pedestrians.

The Project will include off-street parking, with a safe means of ingress and egress. As confirmed by the Town's peer review consultant, the Project's traffic impacts will be acceptably mitigated. The Project's construction management plan will address construction impacts to the surrounding neighborhood. The Project will be designed and operated to comply with all state and local noise ordinances.

4. Adequate and appropriate facilities will be provided for the proper operation of the Project.

The Project will be provided with parking, sanitary, life safety and other facilities in compliance with applicable building and health codes, and the Project's construction management plan will minimize construction impacts to the surrounding neighborhood.

5. The Project will not have a significant adverse effect on the supply of housing available for low and moderate income people.

All of the property's current or proposed uses are commercial in nature. The Project will therefore have no effect on the supply of housing available for low and moderate income people.

6. Additional conditions and reasons relating to accommodation of up to 102 additional vehicles (15% of 683) through managed parking in the GMR-2.0 District

Based on the uses contemplated by the Petitioner within the GMR 2.0 District, the By-Law requires 714 parking spaces. Testimony provided on behalf of the Petitioner evidences that fifteen (15%) percent managed parking spaces (being 102 parking spaces) are additionally appropriate to meet the market demand and to avoid use of on-street parking in nearby neighborhoods by patients and visitors for those uses. The Petitioner will propose reasonable operational conditions to be administered by the Director of Transportation relative to administration of the 102 managed parking spaces. The Board's decision hereunder is in part in reliance on the Petitioner's agreement to employ a robust TDM program and adopt measures so that the garage will not be used for satellite parking.

7. Additional conditions and reasons relating to Community Impact and Design Review

The Project meets the community impact and design review standards set forth in **Section 5.09.4** of the Zoning By-Law as provided in the Planning Board report.

8. Additional conditions and reasons related to the height of rooftop structures

2 Brookline Place's limited rooftop structures (consisting of stacks and pipes as indicated on plans submitted in connection with the hearing) that exceed the applicable 115-foot height limit are not "substantial" as that term is used in **Section 5.31.1**.

9. Additional conditions and reasons related to yard and setback regulations

The Project includes amenities such as public space, landscaping and other improvements and public benefits that will off-set any reduction in the depth or area of any required yard or setback as provided in **Section 5.43** of the Zoning By-Law.

10. Additional conditions and reasons related to loading requirements for mixed uses

According to the Plans, the Project will include four loading bays consisting of three loading bays at 2 Brookline Place and one loading bay 1 Brookline Place for the Project's medical office, general office and retail uses. Based on testimony provided on behalf of the Petitioner that the delivery patterns of the various uses differ from each other, the four loading bays spread between two buildings will sufficiently accommodate the anticipated demand for those uses. Accordingly, a reduction in the loading bay requirements for mixed uses is appropriate.

11. Additional conditions and reasons related to building identification signage



The testimony and Plans indicate that the Project will include building identification signs displaying the uses and tenants within the buildings at the Project. These signs will reach the following maximum heights: west elevation - 125 feet (2 Brookline Place), south elevation - 125 feet (2 Brookline Place), and south elevation - 79 feet (1 Brookline Place). The Petitioner testified that the Project's building identification signs are necessary to identify the uses and tenants within the buildings at the Project and the Board concluded that these signs are consistent with identification signs employed on comparable first class commercial developments and buildings in the Project's vicinity.

Therefore, the Board voted unanimously to grant the requested special permits from application of the provisions of Section 5.06.4.d.1, Section 5.06.4.d.1.c.iii, Section 5.06.4.d.2.f, Section 5.06.4.d.5, Section 5.09, Section 5.43 (including without limitation, under Section 5.01, Footnote #1), Section 6.04.3, Section 6.06.7 and Section 7.00.1.b of the Zoning By-Law pursuant to Section 5.06.4.d.1, Section 5.06.4.d.1.c.iii, Section 5.06.4.d.2.f, Section 5.06.4.d.5, Section 5.09, Section 5.43 (including without limitation, under Section 5.01, Footnote #1), Section 6.04.3, Section 6.06.7, Section 7.00.1.b and Section 9.05 of the Zoning By-Law, subject to the following revised conditions:

1. Uses in the One Brookline Place addition and the 2 Brookline Place building shall be medical office, general office, ground floor retail and accessory uses. The proportions of medical office and general office in the buildings may be determined by the applicant from time to time but may be all medical office, if so dictated by the needs of the applicant and tenants, however, the ground floor of the Two Brookline Place building shall be retail along with common area, and, at the election of the applicant, the ground floor of the One Brookline Place addition may also be retail along with common area, medical office and general office. Accordingly, the Transportation Demand Management plan has been based on use of the buildings for all medical office use with ground floor retail in the 2 Brookline Place building.
2. The parking garage shall have not more than 683 striped parking spaces, excluding drop-off and loading zones, and shall be available to meet the parking requirements of all buildings within the GMR-2.0 District. The applicant shall be allowed to park up to 102 additional vehicles within the garage, which may be in tandem parking arrangement and/or any other

parking arrangement, operation or devices that enable additional vehicles to be accommodated within parking garages. The applicant shall submit a list of Managed Parking Operational Provisions to the Director of Engineering/Transportation for review and approval prior to commencement of any tandem parking arrangement and/or any other parking arrangement, operation or devices that enable additional vehicles to be accommodated within a parking garage.

3. Prior to the issuance of a demolition permit for any building on the site, the applicant shall obtain from the Preservation Commission all applicable certificates of non-significance for structures to be removed or partially demolished.
4. Prior to the issuance of a demolition permit for any building on the site, a final construction management plan, including interim parking conditions for existing One Brookline Place, identification of any specimen trees that will be dug and relocated offsite with the permission of the Tree Warden, parking locations for construction vehicles, hours of construction and materials delivery, noise mitigation, staging areas, security fencing, pedestrian pathways, location of portable toilets, rodent control, erosion and sediment control, protocols to insure protection of persons in the vicinity of the construction work, including air quality monitoring during activities involving disturbance of contaminated soils or management of any contaminated media, emergency contact information, and the name and contact information for a project liaison provided by the applicant, shall be submitted for review and approval by the Director of Engineering/Transportation, after input from the Building Commissioner, Health Director and Conservation Agent/Tree Warden. The construction management plan shall also include the manner of treatment of trees to be preserved or to be removed within the public way abutting the site. A copy of the approved plan shall be submitted in paper and electronic form to the Planning and Community Development Department such that it can be posted on the Planning and Community Development Department's website. Geotechnical monitoring shall be continuous throughout construction, as determined by the Building Department.
5. Prior to issuance of a demolition permit for any building on site, the applicant shall submit to the Director of Public Health for review and approval details regarding the plans for

environmental remediation of the site, as well as long-term environmental monitoring of the site post remediation and construction of the buildings. Any changes to these plans shall be submitted to the Director of Public Health prior to implementation.

6. Prior to issuance of a demolition permit for any building on site, the applicant shall submit to the Fire Department for review and approval a Safety Plan, detailing how the sprinkler, standpipe, and fire alarm systems will be maintained during demolition, as well as ensuring adequate emergency access during demolition.
7. Prior to issuance of a building permit for each of the 2 Brookline Place building, 1 Brookline Place addition, or parking garage, as applicable, the applicant shall submit to the Fire Department for review and approval a Safety Plan for the new building to be constructed, including details regarding the emergency access and life safety systems on site, and evidence of adequate water pressure for fire suppression systems in all new construction.
8. Prior to the issuance of a building permit for any of the 2 Brookline Place building, 1 Brookline Place addition, or parking garage, as applicable, final elevations indicating façade design, colors, materials, windows, rooftop details, penthouse configuration and screening, signage, and placement of all mechanical, electrical and plumbing systems and components of the applicable buildings or the garage shall be submitted for review and approval of the Planning Board. An on-site mock-up shall be submitted for the review and approval of the Planning Board after the building permit is issued but before the materials are ordered.
9. Prior to the issuance of a building permit for the earlier to occur of the 2 Brookline Place building or the 1 Brookline Place addition, final site and landscaping plans for the entire site, including plant types and sizes; a full existing and proposed tree inventory; planting depth details for proposed plants and trees on both private and public property, and information about the planting strategy relative to any capping of the subsurface; fencing; exterior lighting; location of utilities and bicycle parking facilities; hardscape materials and outdoor furniture for the entire site shall be submitted for the review and approval of the Planning Board and the Town's Tree Warden. This landscaping plan shall include

landscaping for the public property located between the site's Washington Street and Brookline Avenue property lines and the back of the sidewalks on the same streets, and the applicant shall be responsible for installing and maintaining this landscaping at the same level as the rest of the site's landscaping, provided that the Town issues a license satisfactory to the applicant for such installation and maintenance on public property.

10. Prior to the issuance of a building permit for any of the 2 Brookline Place building, 1 Brookline Place addition, or garage, a bond of 150% of the estimated construction cost for the construction and landscaping of the approved pedestrian walkway and open-space improvements shall be submitted to the Building Department. The Building Commissioner and/or the Director of Planning and Community Development shall notify the applicant in writing if they reasonably determine that the project is only partially completed, without all approved buildings and/or additions constructed, and that construction by the applicant will not continue. If within thirty (30) days of receiving such notice the applicant fails to agree to diligently undertake such actions required to complete the work remaining on construction and landscaping of the approved pedestrian walkway and open-space improvements, the Town may redeem the bond to undertake completion of the approved pedestrian walkway and open-space improvements. The Town shall return to the applicant any amounts redeemed in excess of the actual costs incurred to construct and landscape the approved pedestrian walkway and open-space improvements.
11. Prior to the issuance of a building permit for any of the 2 Brookline Place building, 1 Brookline Place addition, or parking garage, a drainage plan shall be submitted for review and approval of the Director of Traffic/Engineering and the Conservation Agent.
12. Prior to the issuance of a building permit for any of the 2 Brookline Place building, 1 Brookline Place addition, or parking garage, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision:  
1) a final site plan, stamped and signed by a registered engineer or land surveyor, including fencing, grading, and location of utilities; 2) final building elevations including exterior signage generally as indicated on the application plans, stamped and signed by a

registered architect; 3) final floor plans, stamped and signed by a registered architect; 4) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

13. Prior to the issuance of a building permit for either the 2 Brookline Place building or 1 Brookline Place addition, the applicant shall provide evidence reasonably satisfactory to the Building Commissioner and Director of Planning and Community Development that the applicable building is a LEED certifiable Silver Building or higher rating via the provision of a LEED scoring sheet. Prior to the issuance of the final Certificate of Occupancy for each of the 2 Brookline Place building and the 1 Brookline Place addition, as applicable, the applicant shall provide a final LEED Checklist and an Affidavit of Construction Compliance prepared by a LEED Accredited Professional and/or project architect.
14. The Applicant will not commence demolition of the existing structure at 2 Brookline Place until a building permit for the garage has been issued with evidence reasonably satisfactory to the Director of Planning and Community Development and Town Counsel, provided on a confidential basis, that financing is or will be in place for construction of the 1 Brookline Place addition and 2 Brookline Place building, exclusive of tenant fit-up, and the garage.
15. At the completion of the perimeter foundation walls for any of the 2 Brookline Place building, the 1 Brookline Place addition, or the garage, as applicable, and prior to the issuance of a building permit for the above-ground portion of the building, an as-built foundation plan certified by a registered professional engineer or surveyor to be in accordance with the approved site plan shall be submitted for review and approval by the Building Commissioner. If the as-built foundation is found to be non-compliant with the approved site plan, the Building Commissioner may stop above-grade construction activities until such time the foundation is brought into compliance with the approved site plan.
16. Up to three temporary construction and/or development sign(s), each no greater than 50

square feet, may be erected on site during the construction and initial leasing period, with the design subject to the review and approval of the Director of Planning and Community Development (or his/her designee), who shall also have the authority to determine that the initial leasing period has ended when 80 percent of each of the 2 Brookline Place building and the 1 Brookline Place addition is occupied.

17. Prior to issuance of a building permit for any signage for the 2 Brookline Place building, the 1 Brookline Place addition or garage, other than the signage referenced in condition #16 above, final design plans for the sign(s) shall be submitted to the Planning Board for review and approval.
18. A minimum of 25% of parking spaces in the garage shall be offered to residents for overnight parking at market-competitive rates. These spaces shall be available at a minimum from 8 p.m. to 7:30 a.m. weekdays and all day Saturdays and Sundays. If the Applicant chooses to provide more parking spaces for overnight use, these minimum hours of availability shall not apply to these additional spaces. Additionally, if the applicant wishes to provide parking on weekends and holidays and during weekdays after 6 p.m. and before 1 a.m. for users of area businesses, such as restaurants, this shall be allowed.
19. No satellite parking shall be allowed, except as indicated in condition #18 above. Satellite parking is defined as parking used by persons working a majority of their time at another location(s), who are not visiting the building. Toward that end, the Applicant shall employ techniques including preferential parking rates for tenants and visitors, and higher parking rates for non-tenants over a specified number of hours per day.
20. No less than thirty (30) days prior to the anticipated date of issuance of the building permit for either the 1 Brookline Place addition or 2 Brookline Place building, whichever first occurs, a Transportation Demand Management (TDM) plan shall be submitted to the Town for review and approval by the Director of Engineering/Transportation and the Director of Planning and Community Development (or his/her designee). In connection with preparation of the TDM plan, the applicant shall provide information describing its existing

policies relating to employee transportation then in effect, and the mode use resulting from such existing policies. Any tenant in the development that has executed a lease for occupancy at the 1 Brookline Place addition or 2 Brookline Place building shall be requested to provide such information as to its existing policies relating to employee transportation then in effect in other locations operated by such tenants, and the mode use resulting from such existing policies in such other locations. The TDM shall include, but is not limited to, the following provisions:

- a. Include a garage lay-out plan showing no more than 683 striped parking spaces available for use and companion table showing locations, numbers, and users of different types of parking spaces, including, but not limited to: compact, full car, handicap, drop-off, van, electric car, car-sharing services such as Zip-Car and employee, visitor, resident overnight, loading and ambulance spaces.
- b. Include a requirement for employee vehicle identification parking stickers or tags.
- c. Outline initial parking rates for employees, visitors, and residential overnight parkers.
- d. Indicate how and where information will be provided and displayed (including the lobbies) on all public and other transit options to Brookline Place, with an explanation of which services are for employees only, which are open to the public in general, and the percentage of employees using different modes of transit.
- e. Provide for sale of MBTA transit passes on-site.
- f. So long as the 1 Brookline Place addition and 2 Brookline Place building are operated by Children's Hospital Boston or any affiliate of Children's Hospital Boston ("Children's"):
  - (i) Provide for Children's employees working within the 2 Brookline Place building or the 1 Brookline Place addition not less than a 50% public transit employee annual subsidy program, or such greater level as is then being provided by Children's to its employees at its core campus within the

Longwood Medical and Academic Area;

- (ii) Provide other transit programs, such as MASCO's "Three for Free" (try public transit for three months for free) and a "Guaranteed Ride Home" for Children's employees working within the 2 Brookline Place building or 1 Brookline Place addition;
  - (iii) Provide an employee tax benefit program through the Federal Transit Administration allowing employers to receive a tax deduction for providing transit subsidies and allowing employees to use pre-tax income to pay for transit expenses for Children's employees working within the 2 Brookline Place building or 1 Brookline Place addition;
  - (iv) Provide shuttle service, at a minimum, to locations in the Longwood Medical Area, and use best reasonable commercial efforts to include access to satellite parking facilities either currently operated by MASCO or to be established by MASCO; and
  - (v) Encourage staggered work hours for Children's employees working within the 2 Brookline Place building or 1 Brookline Place addition.
- g. Provide for and maintain not less than 70 bicycle parking spaces, secure, sheltered from the weather, and shower facilities for all employees who may choose to bicycle to work, including bicycle spaces which may be located in the 2 Brookline Place building or 1 Brookline Place addition for use by employees and in the garage for use by employees or visitors. Outdoor bicycle parking will also be provided near the main building entrance for short term visitors.

21. No less than thirty (30) days prior to the anticipated date of issuance of the Certificate of Occupancy for the earlier to occur for the 1 Brookline Place addition or 2 Brookline Place addition, the Applicant shall designate a traffic and parking coordinator to work with the



Director of Engineering/Transportation and the Director of Planning and Community Development (or his/her designee) to ensure on-going implementation of all TDM-related efforts. The coordinator shall allow access to the garage by the Town for review of the TDM plan implementation, coordinate and publicize all TDM-related efforts to building tenants, and shall coordinate with the Town to mitigate any impacts during construction of the Gateway East plan.

22. To ensure compliance with the TDM plan, the following provisions shall apply, which provisions shall also constitute the Transportation Access Plan Agreement required under Section 5.09.3.c.6.c of the Zoning By-Law:

- a. An Annual Report shall be provided by the Applicant's traffic and parking coordinator, subject to the review and approval of the Director of Engineering/Transportation and the Director of Planning and Community Development (or his/her designee) relative to the implementation and effectiveness of the TDM plan. The Annual Report shall be submitted prior to issuance of an annual permit for the Transportation Access Plan Agreement from the Building Department under Section 5.09.3.c.6.d of the Zoning By-law. The Annual Report, which shall be submitted together with the applicant's request for the annual permit for the Transportation Access Plan Agreement, shall include the following features:
  - (i) An annual monitoring and reporting program will commence after receipt of the final Certificate of Occupancy for the last to occur for the 1 Brookline Place addition and the 2 Brookline Place building. If the final Certificate of Occupancy is issued between September 1 and February 29, the monitoring will take place during the months of September or October and a report provided to the Town no later than November 30. If the final Certificate of Occupancy is issued between March 1 and August 31, monitoring will take place during the months of April or May and be reported to the Town no later than June 30; and
  - (ii) The monitoring program will be based on traffic counts and employee surveys as to vehicle, transit, pedestrian, and bicycle usage to 2 Brookline Place and 1 Brookline Place, including the addition. The monitoring program will provide detailed information on the travel modes to work and overall transportation characteristics by type of traveler

(employee, visitor, etc.). The survey instrument to be used for mode share monitoring will be provided to the Director of Engineering/Transportation and the Director of Planning and Community Development for approval prior to conducting the survey. The employee survey (which may be conducted through electronic means) will be sent out to all employees, with a goal of securing a sixty percent (60%) minimum response rate. A patient/visitor survey shall be conducted during normal business hours, with a goal of securing at least 200 patient/visitor surveys. The requirement for the Annual Report shall be in effect for five years, and thereafter at the discretion of the Director of Transportation/Engineering and the Director of Planning and Community Development (or his/her designee).

- b. The Director of Engineering/Transportation, in consultation with the Director of Planning and Community Development, shall determine whether the employee vehicular mode share is greater than 35 percent. In the event the employee vehicular mode share is greater than 35 percent, the TDM plan shall be modified to incorporate any reasonable requests of the Director of Engineering/Transportation within sixty (60) days after he/she issues his/her determination. Failure to issue such a determination within sixty (60) days of receiving the Annual Report shall be deemed acceptance of the Annual Report and the existing provisions of the TDM plan. If any owner objects to any new request as being unreasonable or not required, such matter may be presented to the Transportation Board for recommendation to the Board of Appeals for determination, and during such process the applicant will not be considered out of compliance with Section 5.09.3.c.6.d of the Zoning By-law. Following the issuance (or deemed issuance) of the foregoing determination, the Building Department shall use its best efforts to issue the annual permit for the Transportation Access Plan Agreement under Section 5.09.3.c.6.d of the Zoning By-law with appropriate due diligence.

- 23. Prior to the issuance of the final Certificates of Occupancy for the later to occur of the 2 Brookline Place building and the 1 Brookline Place addition, 1% of the hard costs of constructing 2 Brookline Place, the 1 Brookline Place addition and the garage (exclusive of

tenant fit-up), shall be spent by the Applicant, or given to the Town, for making off-site streetscape improvements (such as, but not limited to, lighting, street furniture and widening sidewalks, subject to the review and approval of the Planning Board or its designee) and undertaking transportation and community benefit mitigation measures. From the payment of 1% of the hard construction costs (exclusive of tenant fit-up), the amount of \$300,000 shall first be devoted to the demolition of the Hearthstone Plaza Bridge at Route 9 (the "**Bridge Demolition**") and the amount of \$750,000 shall first be devoted to the Gateway East Project, and such payments by the applicant shall be credited against the 1% payment requirement, notwithstanding that such payments may have been made prior to the issuance of the Special Permit.

In the event the amount of the 1% of the hard construction costs (exclusive of tenant fit up) exceeds the Bridge Demolition and Gateway East Project Contributions, a plan of any proposed off-site streetscape improvements to be constructed by the Applicant and a description of the proposed transportation mitigation measures shall be submitted for the review and approval of the Director of Transportation/Engineering and the Director of Parks and Open Space or their designees. The applicant's obligation with respect to construction of off-site improvements shall be subject to approval by the various Town boards, commissions and department heads with jurisdiction over such off-site areas. The applicant shall, at the discretion of the Town, complete the improvements to the extent possible or provide the funds to the Town for expenditure by the Town prior to the issuance of such final Certificates of Occupancy, and the balance of funds that are unspent and uncommitted to the completion of these improvements at the time of the issuance of such final Certificates of Occupancy shall be paid to the Town.

24. In addition to the requirements of condition #23, the applicant shall provide the following off-site transportation and pedestrian improvements as may be approved by the Director of Engineering/Transportation and/or the Planning Board, each acting in their reasonable discretion:

a. At the Town's election, indicated to the applicant not later than one year prior to the date of anticipated issuance of the later of the final Certificates of Occupancy for 1 Brookline Place addition and 2 Brookline Place building:

(i.) The Town shall indicate to applicant whether the Town will undertake the "**Pearl Street Reconstruction**" consisting of improvements to the street lighting system on the south side of Pearl Street, reconstruction and installation of pavement and curbing along Pearl Street and landscaping and pedestrian markings and/or pavers that visually connect the Property to the Brookline Village MBTA. In the event such work will be undertaken by the Town, the applicant shall deposit \$335,000 in escrow to be expended by the Town for the reasonable costs of the Pearl Street Reconstruction. Any excess funds remaining after the completion of the Pearl Street Reconstruction by the Town shall be returned to the applicant.

(ii.) If the Town does not undertake the Pearl Street Reconstruction, the Town shall undertake the design of such work and secure the required approvals and licenses therefor; subject to the foregoing, the Applicant shall commence construction of the Pearl Street Reconstruction within sixty (60) days of issuance of the final Certificates of Occupancy for 2 Brookline Place and the 1 Brookline Place addition, but shall not be required to expend more than \$335,000 for such design and construction.

b. Within six (6) months of the issuance of the final Certificates of Occupancy for the 2 Brookline Place building and the 1 Brookline Place addition, installation of an audible traffic signal at Pearl Street and Brookline Avenue.

25. Prior to the issuance of the applicable final Certificate of Occupancy for any of the buildings on the site, complete as-built plans for the 2 Brookline Place building, 1 Brookline Place addition, and the garage, as applicable, certified by a registered architect

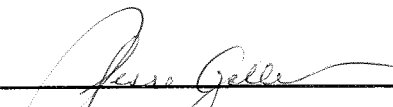
as in compliance with the approved plans, shall be prepared and filed with the Building Commissioner.

26. To the extent permitted by law, prior to the issuance of the final Certificates of Occupancy for the 2 Brookline Place building and the 1 Brookline Place addition, the applicant shall implement for the benefit of Brookline residents and in particular residents of the Brookline Housing Authority and Village Way, a "Brookline Residents Permanent Employment Program," a copy of which is attached as **Exhibit A**.
27. Prior to the issuance of the final Certificates of Occupancy for 2 Brookline Place, a loading facility plan shall be submitted to the Director of Engineering/Transportation and the Director of Planning and Community Development setting forth the anticipated schedule of deliveries to the four loading bays provided (3 at 2 Brookline Place and 1 at the existing portion of 1 Brookline Place) based on the proposed uses, hours of operation, delivery service requirements, and allocation of loading facilities across the various uses and buildings. If deemed required by the Director of Engineering/Transportation and the Director of Planning and Community Development, the Applicant may be required to designate a Dock Master to coordinate and schedule deliveries to the buildings.
28. The applicant shall make available outdoor areas within the site for periodic use by the Town for approximately 3 or 4 community events annually without payment of a license fee by the Town, but subject to such limitations with regard to frequency, timing and use as the Town and the applicant shall reasonably agree and to reasonable rules and regulations which may be imposed by the applicant. In connection with such use, the applicant shall make available for use by the Town a storage area of approximately 400 square feet for the storage of certain recreational equipment associated with the Town's use of such outdoor areas.
29. The applicant shall comply in all material respects with any other conditions of that certain Memorandum of Agreement between affiliates of Children's and the Town, dated May 15, 2014, recorded with the Registry in Book 32771, Page 19.

Unanimous Decision of  
the Board of Appeals

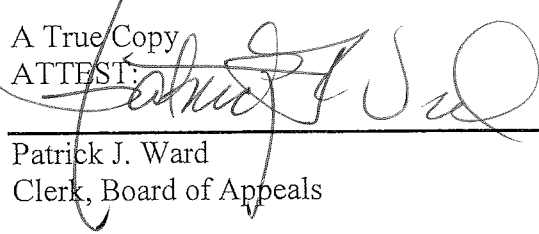
Filing Date:

5/26/15

  
Jesse Geller, Chairman

A True Copy

ATTEST:

  
Patrick J. Ward  
Clerk, Board of Appeals

2015 MAY 26 A 9:29

RECEIVED  
TOWN OF BROOKLINE  
TOWN CLERK

## EXHIBIT A

### Brookline Residents Permanent Employment Program

The following is an outline of a program to be implemented by the owner (the "**Owner**") of 2 Brookline Place and the 1 Brookline Place addition (the "**Project**") to make local Brookline Residents, in particular residents of Village Way and the Brookline Housing Authority, aware of permanent jobs opportunities at the Project.

The Program will apply to jobs related to operation, management, maintenance, and provision of security to the Project filled by employees hired directly by Owner or by independent contractors engaged by the Owner providing services exclusively to the Project, and will also apply to permanent jobs at the Project for any space at the Project used by Owner in the course of Owner's business.

In filling jobs for operation, security, maintenance and management personnel employed directly by the Owner at the Project or for any space at the Project used by Owner in the course of Owner's business (a "**Permanent Job**"), the Owner will adhere to the following procedures:

- At least five days prior to publicly announcing or advertising the availability of a Permanent Job, the Owner will send a job description via email to the Brookline Housing Authority Executive Director; Town Meeting Members from Precincts 4, 5, and 6; the Brookline Adult & Community Education Director; and the Brookline Residents Permanent Employment Program Email List. The Owner is not required to so notify if the Owner intends to fill the opening via transfer or promotion from its existing staff or by union referral in accordance with a union contract.
- The Owner will provide an email notification system such that interested Brookline residents are able to subscribe to the early job description notification described above. The Planning & Community Development Department will provide a link to the email subscription program on their webpage, within periodic mailings and/or newsletters.
- The Owner will physically post job descriptions in a prominent public location within the building.
- The Owner will give first consideration to qualified Brookline applicants, but is not required to hire such candidates.
- The Owner will assign an individual on the Project's management staff to be responsible for ongoing compliance the Brookline Residents Permanent Employment Program. Annual updates including the total number of employees related to operation, management, maintenance, and provision of security to the Project, percentage of Brookline residents, and staff contact information will be sent to the Brookline Director of Planning & Community Development or his designee.

The Owner will require that any independent contractors engaged by the Owner providing such services exclusively to the Project follow procedures similar to those set forth above. Also, after the execution of any lease for space in the Project, the Owner will send to each tenant a letter urging that the tenant, in its new hiring, adhere to the goals of the Brookline Residents Permanent Employment Program.

Nothing contained herein shall prevent Owner from filling job vacancies or newly created positions without compliance with the foregoing procedures by transfer or promotion from the existing staff of any of Owner's affiliates or from a file of qualified applicants maintained by Owner, any of its affiliates or union referral in accordance with applicable union contracts to which Owner or any of its affiliates are a party and are applicable to the Project. Further, nothing contained herein shall be construed to require Owner, any Owner affiliates or any service, maintenance, security or management agent or independent contractor engaged by Owner (i) to hire any candidate referred by the Town, (ii) to hire or train persons that Owner (or any service, maintenance, security or management agent or independent contractor engaged by Owner, as the case may be) does not consider qualified based on the standards Owner or its affiliates applies to all job applicants, or (iii) to terminate the employment of existing workers.